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H – 1579

International Court of Justice

Whitehall 9000, Ext: 808.

H1579 - 0002

Any further communication
should be addressed to:—
The Secretary of the Admiralty,
London, S.W.1.

quoting "M.0704/46"

Admiralty, S.W.1.

7th March, 1946.

Sir,

I am commanded by My Lords Commissioners of the Admiralty to refer to the British War Crimes Executive's telegram BWCE/N/SIG/1-448 of the 25th February concerning the documents to be made available to the defence in the trial of Grossadmiral Doenitz as a war criminal.

My Lords have already made available such of the documents referred to in paragraph 1 of this signal as are in their possession.

So far as paragraph 2 is concerned, I am to inform you that Confidential Admiralty Fleet Orders were not issued to merchant ships and are therefore irrelevant to the matters under consideration with the one exception shown below. My Lords conveyed instructions to merchant ships from May 1940 to the end of the war in the form of Admiralty Merchant Shipping Instructions but these were supplementary to the standing instructions to masters and officers contained in the Defence of Merchant Shipping Handbook of 1938. Indeed most of the orders issued which can be said to be relevant to the points raised by the defence were contained in the Handbook and were not in any way modified during 1939 and 1940. Therefore, although the British War Crimes Executive's telegram asks only for Confidential Admiralty Fleet Orders and Admiralty Merchant Shipping Instructions, My Lords feel that, where appropriate, extracts from the Handbook should be given.

In answer to items (A) to (H) of the telegram under reference, I am accordingly to enclose the relevant instructions. Except where otherwise stated the references given below are to the Defence of Merchant Shipping Handbook.

(A) Chapter 3 I 55 of D.M.S. Handbook impresses on masters the importance of reporting the nature and position of an enemy by wireless telegraphy. This is amplified by Chapter 6 I 159.

(B) Instructions about the use of defensive armament by merchant ships are contained in Chapter 2 VII 53 and 54 and about their conduct in the presence of a U-Boat in Chapter 3 III 65 - 67. Chapter 2 VII 53 and 54 was amended by A.M.S.I. 118 of the 13th June 1940. The area in which attacks without warning might be expected was extended by A.M.S.I. 183 of the 12th September 1940. A.M.S.I. 262 of the 19th December 1940 brought in enemy surface ships which were by then also attacking without warning.

(C) No orders to ram were issued to merchant ships, but the tactics to be adopted in the event of U-Boat attack are shewn under (B).

(D) Orders were given on the 14th September 1939 for the fitting of a depth charge chute in Defensively Equipped Merchant Ships of 12 knots or more.

/(E) .....

The British Secretary,
International Military Tribunal,
Nuremberg.

CMS.

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(E) It is not disputed by the Admiralty that it was the intention before the war to equip merchant ships with armament for defensive purposes and that it was necessary to train members of the ships' crews to assist Service ratings to operate this armament. (D.M.S. 10 I 209)

(F) Confidential Admiralty Fleet Order 2512 of the 31st August 1939 made provision for the employment of naval ratings and Royal Marines in Defensively Equipped Merchant Ships. They signed on the ship's articles but were carried in addition to the normal ship's crew and remained subject to the Naval Discipline Act (as this order is very long and deals with many irrelevant details, extracts only are enclosed). The crews of the merchant ships themselves were never subject to naval discipline.

(G) No such order was issued.

(H) Chapter 3 III 70 gave instructions that no ocean-going British merchant vessel should go to the assistance of a ship which had been attacked by a submarine but that small coasting,craft, trawlers and other vessels of light draught should give all the assistance they could.

In order that the intention of these instructions may be fully clear both to the prosecution and the defence, I am also to enclose a copy of the first three sections of Chapter I of the Defence of Merchant Shipping Handbook; but indeed the distinction between the right of a merchant ship to defend itself and the arming of a merchant ship for offensive purposes is apparent from the title of the handbook itself.

I am, Sir,
Your obedient Servant,

P. N. A. Symcox.

INTERNATIONAL MILITARY TRIBUNAL
NURNBERG, GERMANY
Doenitz Exhibit 67
Mar 18 Filed 1946

(A) D.M.S. 3 I 55

Reporting the enemy.

As soon as the Master of a merchant ship realises that a ship or aircraft in sight is an enemy, it is his first and most important duty to report the nature and position of the enemy by wireless telegraphy. Such a report promptly made may be the means of saving not only the ship herself but many others; for it may give an opportunity for the destruction of her assailant by our warships or aircraft, an opportunity which might not recur. How and when to make Enemy Reports and Distress Messages is explained in Part II, Chap. 6. It is essential that Masters and officers should be familiar with this chapter.

D.M.S. Pt.II 6 I 150

The Importance of Reports

(a) The importance of single merchant ships reporting by W/T the sighting and position of all enemy warships or aircraft that may be sighted has been emphasised in Part I, Chapter 3. Reports must be made either as "Enemy Reports" or as "Distress Messages," depending upon the circumstances.

(b) Enemy Reports and Distress Messages may only be transmitted on the personal authority of the Master or officer on watch.

(c) It is important that such messages should be transmitted as soon as possible. There may be a warship in the vicinity and early receipt of the signal may thus be the means of saving other ships or of bringing the enemy to action.

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(B) D.M.S. 2 VII

53 Conditions under which fire may be opened.

(a) Against enemy acting in accordance with International Law. - As the armament is solely for the purpose of self-defence, it must only be used against an enemy who is clearly attempting to capture or sink the merchant ship. On the outbreak of war it should be assumed that the enemy will act in accordance with International Law, and fire should therefore not be opened until he has made it plain that he intends to attempt capture. Once it is clear that resistance will be necessary if capture is to be averted fire should be opened immediately.

(b) Against enemy acting in defiance of International Law. - If, as the war progresses, it unfortunately becomes clear that, in defiance of International Law, the enemy has adopted a policy of attacking merchant ships without warning, it will then be permissible to open fire on an enemy surface vessel, submarine or aircraft, even before she has attacked or demanded surrender, if to do so will tend to prevent her gaining a favourable position for attacking.

(c) Before opening fire British colours must be hoisted.

54. Conditions under which fire may not be opened.

(a) Fire must never be opened by a ship which has already signified her surrender, by stopping when ordered or by hauling down her colours or in any other way. Similarly, if a ship defends herself but subsequently surrenders, she must at once cease firing and must not re-open fire.

(b) The above does not, however, preclude a ship which has been captured from subsequently endeavouring to escape or undergoing recapture by a friendly warship. (See Art.7.)

(c) A merchant ship armed for self-defence must not under any circumstances interfere with, or obstruct the free passage of, other merchant vessels or fishing craft, whether hostile or neutral.

Note: Detailed instructions as to when and how to use the armament are given later.

D.M.S. 3 III

65. Conduct when attacked by a submarine on the surface. -

(a) General. - No British merchant vessel should ever tamely surrender to a submarine, but should do her utmost to escape. A vessel which makes a determined attempt to escape has an excellent chance of doing so.

(b) Immediate action - The merchant ship should:-

(i) Turn stern on to the submarine and proceed at full speed. This lessens the target for torpedo fire and facilitates making alteration of course to avoid any torpedoes fired by the submarine. Where possible to do so while keeping stern on to a submarine, endeavour to close the land or shallow water.

(ii) Make a Distress Message immediately by wireless telegraphy (See Part II, Chap. 6, Section 3, and Appendix B), and in addition a ship being attacked by a submarine on the surface should:-

By/

By day. - Fly the largest available ensign at half-mast on the foremast or triatic stay.

By night. - Fire at intervals two red Very's lights (or red rocket distress signals or red rockets).

(iii) Make smoke if smoke producing apparatus or smoke floats are carried (see Chapter 10).

(iv) In ships fitted with a defensive armament, open fire in order to keep the enemy at a distance, if you consider that he is clearly intending to effect a capture and that he is approaching so close as to endanger your chances of escape. Fire should also be opened if the enemy opens fire on you.

66. Attack by a submerged submarine.

(a) A submerged submarine presents no danger unless the enemy has adopted unrestricted warfare and is torpedoing ships without warning in defiance of International Law.

(b) Submarine tactics. - A submarine if she remains submerged can only attack by firing torpedoes and to do this she must manoeuvre into a suitable position, and at the same time correctly estimate the course and speed of her target. The submarine will, if possible, try to get to an initial position dead ahead of her target, and will thence try to manoeuvre into a position suitable for firing a torpedo, which is normally within the arc between 4 points on the bow and 3 points abaft the beam of the ship attacked, at a range between 400 and 1,200 yards (see Chapter 2). If, however, the submarine is so far from the line of advance of her target that she cannot reach a position ahead she may be compelled to try to reach her firing position by approaching on a broad bearing.

67. Conduct when attacked by a submerged submarine.

(a) If the enemy is known to be torpedoing ships without warning, and a submarine's periscope is sighted, it must be assumed that she is attacking with torpedoes, whether or not a torpedo track has been seen.

(b) Immediate action. - On sighting a torpedo track* or periscope, increase to full speed and manoeuvre the ship so as to defeat the attack as follows:-

(i) If a periscope is sighted before the beam or the track of a torpedo is seen approaching from before the beam, turn towards the periscope or the point from which the torpedo track appears to start.

(ii) If a periscope is sighted abaft the beam or the track of a torpedo is seen approaching from abaft the beam steer directly away from it.

In either case full rudder should be used.

In order to ensure that the turn, whether towards or away is correctly carried out, it is essential to obtain an immediate compass bearing of the periscope or torpedo track.

(c) An exception to (b) (i) above is the action to be taken if, in a smooth sea, a periscope is sighted before the beam more than a mile away and no torpedo track is seen. In that case it would be better to turn away than to turn towards.

* It must be remembered that the torpedo is a good distance ahead of the bubbles - anything from about 85 yards to 220 yards, depending on the speed and depth at which the torpedo is running.

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A.M.S.I.118

Submarines Action on Sighting.

With reference to D.M.S. Part 1, Article 53, it is now considered clear that, in submarines and aerial operations the enemy has adopted a policy of attacking merchant ships without warning. Sub-paragraph (b) of that article should therefore be regarded as being in force, except in relation to enemy surface warships, as there is as yet no evidence that these are attacking ships in contravention of international law.

The following footnote is to be added to the article quoted:-

"N.B - At present it is considered that enemy submarines may be encountered in Home waters and in the Atlantic to the eastward of 45° W. and northward of 15° N. Outside this area all possible care should be taken before opening fire on a submarine, to make sure that it is an enemy submarine. If the probable field of enemy submarine activity extends, a further announcement will be made amending the limits of the area mentioned in this footnote."

A.M.S.I.183

Action on Sighting Submarines.

With reference to D.M.S. Part I, Article 53, it is now considered clear that, in submarine and aerial operations the enemy has adopted a policy of attacking merchant ships without warning. Sub-paragraph (b) of that article should therefore be regarded as being in force, except in relation to enemy surface warships, as there is as yet no evidence that these are attacking ships in contravention of international law.

The following footnote is to be added to the article quoted:-

"N.B. - At present it is considered that enemy submarines may be encountered in Home Waters, in the Atlantic to the Eastward of 45° W., in the Mediterranean, Red Sea and Indian Ocean, including the Persian Gulf. Outside this area all possible care should be taken before opening fire on a submarine, to make sure that it is an enemy submarine. If the probable field of enemy submarine activity extends, a further announcement will be made amending the limits of the area mentioned in this footnote."

A.M.S.I.262

Unrestricted Warfare - Enemy now acting in Defiance of International Law.

1. With reference to Article 53 of D.M.S. (Defence of Merchant Shipping), Part I, it is now clear that in submarine, E-boat and air operations, the enemy has adopted a policy of attacking merchant vessels without warning. Warships and disguised raiders are acting in a similar manner, and Masters of ships must be on the alert and the defensive armament brought to a state of instant readiness whenever a strange vessel is sighted.

2. In opening fire, Masters should therefore be guided by sub-paragraph (b) of the above quoted article, and also act in accordance with particular instructions or restrictions which may be promulgated from time to time for the prevention of danger to friendly vessels or aircraft.

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(D)

REFERENCE SHEET.

From: Director of Trade Division, Admiralty.

To: As on attached sheet.

Dated: 14th September, 1939.

The following instructions have been issued to all W.P.S's.

It has now been decided to fit a single depth charge chute, with hand release gear and supplied with 3 charges, in all D.M.S. of 12 knots or over. Arrangements similar to those now being fitted in A.M.C's should be fitted, complete with sponson (if necessary) and davit, all as on drawings under separate cover.

This equipment is to be fitted, subject to no delay in the sailing date of the ship, and work should not take priority over the mounting of guns.

You are requested to keep close contact with D.E.M.S. staffs concerned, before arranging the fitting of this D/C equipment.

Further instructions will be issued concerning the training of personnel in the use of depth charges.

(Sgd.) R.P. Selby.

Commander

for Director of Trade Division.

Distribution:

The Flag Officers-in-Charge,
London, Southampton, Cardiff, Liverpool, Belfast, Glasgow, Newcastle, Hull.

The Naval Officers-in-Charge,
Falmouth, Avonmouth, Swansea, Leith, Sunderland, Middlesbrough.

The D.E.M.S. Officers,
London, Southampton, Falmouth, Avonmouth, Cardiff, Swansea, Liverpool, Belfast, Glasgow, Leith, Newcastle, Sunderland, Middlesbrough, Hull.

JH

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C.A.F.O. 2512/39

(F) Naval Personnel Employed in D.E.M.S.

Naval ratings or Royal Marines will be provided in Defensively Equipped Merchant Ships by the Admiralty on the following scale when circumstances permit:-

(a) To ships mounting 6 in. and 5.5 in. guns - 2 ratings, 1 as gunlayer.

(b) To ships mounting 4.7 in. guns and below - 1 rating as gunlayer.

No additional ratings will be provided in respect of a second gun, if mounted.

These men will be termed D.E.M.S. ratings.

Men from the Royal Navy, Royal Marines, R.F.R., R.N.R. and R.N.V.R. drafted for duty in Defensively Equipped Merchant Ships will remain mobilised, and will be borne for pay continuously on the books of H.M.S. PRESIDENT III (15, Whiteladies Road, Bristol, 8). These men are to sign on the Ships' Articles, but are to be carried in addition to the normal ships' crews.

As D.E.M.S. ratings will remain subject to the Naval Discipline Act, in the event of the master of a Defensively Equipped Merchant Ship reporting misconduct on the part of any such rating, the officer in immediate command of the D.E.M.S. rating is to investigate the case in the presence of the accuser and the accused, in accordance with the principles laid down in the King's Regulations and Admiralty Instructions.

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ADMIRALTY SW

(H) **D.M.S. 3 III**

Assisting a ship attacked by submarine.

No ocean-going British merchant vessel should go to the assistance of a ship which has been attacked by a submarine. Small coasting craft, trawlers and other small vessels of light draught should give all the assistance they can.

(I) **D.M.S. 1**

1. Maintenance of the flow of seaborne trade.

(a) For the British Empire, success in war will always depend on the ability of merchant ships to maintain the vital flow of British seaborne trade. Without imports of food and raw materials the people of Great Britain could not for long obtain sufficient food and clothing, nor could the armed forces be provided indefinitely with fuel and munitions. Without exports there would soon be no credits wherewith to pay for food and raw materials; though Dominions and Colonies might contribute supplies to the common war effort, these could not of themselves suffice for all needs. These facts will be well known to the enemy and it is therefore to be expected that his warships and aircraft will do what they can to stop the flow of our trade.

(b) To maintain this flow of trade by bringing his cargo safely to its destination must therefore be the object of every Master of a British merchant ship in time of war. To achieve this he must take every step in his power to prevent his ship being captured or sunk. In some cases instant action will be required, and it follows that not only the Master but also the officer of the watch must know what to do, in case the Master should be off the bridge at the time. In some cases, too, the ship may have to defend herself; for no doubt, in a future war as in the last, British merchant ships will be armed in self-defence.

(c) It is not to be expected, of course that merchant ships can of themselves overcome all the dangers of trade warfare. It is one of the principal aims of the Royal Navy to prevent enemy warships and aircraft from assailing British merchant ships, and the general lines on which our naval forces work will be explained in a subsequent chapter. But against such attacks as cannot be altogether prevented by the Royal Navy, much can be done by the merchant ships themselves, either on their own initiative or in conformity with Admiralty orders. It is to make clear to Masters and officers what they can do to ensure the safety of their ships, to give them a firm grasp of all the resources at their disposal for avoiding capture or destruction, and so enable them to act without hesitation, that this book has been written.

2. Legal position of merchant ship.

(a) Before discussing in detail the steps which merchant ships can take to safeguard themselves, it will be as well to consider the legal position of a merchant ship in relation to an enemy warship or aircraft. In the first place it is the clearly established right of a merchant ship to do all she can to avoid or prevent capture either by flight or by resistance. The right of the enemy warship or aircraft to capture her, if she can, and the right of the merchant ship to avoid or resist capture are recognised as equally justifiable.

(b) To avoid capture the Master may alter his course or speed as necessary to elude a suspected enemy, he may do his utmost to out-distance an enemy, or he may avail himself of darkness or thick weather or the use of smoke to shake off pursuit.

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ADMIRALTY S.W.

3. Use of force by defensively equipped merchant ship.

(a) The right to resist. - To resist capture the Master has the definite right to use his defensive armament in the circumstances described in Chapter 2, Section VII.

(b) Non-combatant status. - By using force to resist capture a ship does not lose her non-combatant status. There is a distinct difference between the exercise of the right of self-protection and the act of cruising the seas in an armed vessel for the purpose of attacking enemy vessels. A defensively armed merchant vessel must not in any circumstances interfere with or obstruct the free passage of other merchant vessels or fishing craft, whether these are friendly, neutral or hostile.

(c) Consequences of the use of force. - By resisting, however, the Master necessarily accepts the risks which may result from the enemy using force in reply, to effect the capture of his ship, but the force that the enemy is entitled to use is such only as is needed to prevent escape or overcome resistance. An attempt at escape or resistance does not entitle the captain of the warship or aircraft to sink the merchant ship out of hand; nor does it entitle him, once the escape has been prevented, or the resistance overcome, to pay no further attention to the safety of the crew and passengers.

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(E) D.M.S. 10 I

209. Gunnery personnel. - (a) To ensure that each gun's crew has a nucleus of fully trained men, arrangements will be made for the crew of every defensively-armed merchant ship to include one Naval or Royal Marine gunlayer and one or two men specially qualified in gunnery. As it is not expected that the low-angle and high-angle guns will have to be fought at the same time, these men will form part of the crew of whichever gun is in action.

(b) Naval or Royal Marine gunnery ratings are under the authority of the Master in the same respect as all the rest of the crew of the ship, in accordance with the Merchant Shipping Act. They are also subject to the Naval Discipline Act and any breaches of discipline which they commit should be reported by the Master to the Senior Officer in charge of Defensively Equipped Merchant Ships Staffs at the terminal port (see Art. 210).

They are only to be employed on work connected with the armament or look-out duties. They are, however, at all times to assist in the welfare of the ship, and are to look after the cleanliness of their own living quarters.

(c) The gunlayer, besides being in charge of the gun's crew, will be responsible to the Master or Gun Control Officer for the care and maintenance of the guns and ammunition and all gear connected with their use.

(d) Training - In addition to the gunlayer and men specially qualified in gunnery, men will be required to fill the remaining positions in the gun's crew (varying between five and seven, according to the size of the gun) and for supplying ammunition from the magazine. The training of these men, who will presumably be without previous knowledge in gunnery, will be an important factor in the ship's ability to defend herself. Such training at the fitting out ports as time allows will be given by the Staffs mentioned in Art. 210 above; but training must be continued at sea by the gun-control officer and the gunlayer, and the men must be constantly exercised at the guns if the ship is to put up a good fight when attacked.

(e) In addition to the training of guns' crews and supply parties, organisation for fighting should include arrangements for dealing with outbreaks of fire and for effecting temporary repairs, and also for the care of the wounded.

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Filed May 8, 1946
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